FILED KEVIN V. RYAN (CSBN 118321) 1 United States Attorney 2 EUMI L. CHOI (WVSBN 0722) RICHARD W. WIEKING CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA 3 Chief, Criminal Division DENEE A. DILUIGI (COSBN 35082) 4 Special Assistant United States Attorney 5 450 Golden Gate Avenue, Box 36055 San Francisco, California 94102 6 Telephone: (415) 436-7031 Fax: (415) 436-7234 7 Email: Denee.DiLuigi@usdoj.gov 8 Attorneys for Plaintiff 9 10 UNITED STATES MAGISTRATE COURT 11 NORTHERN DISTRICT OF CALIFORNIA 12 SAN FRANCISCO DIVISION er 05-337 mar 13 CR 3-04-30361 JCS No. 14 STIPULATION CONTINUING DATE OF UNITED STATES OF AMERICA, 15 PRELIMINARY HEARING OR ARRAIGNMENT AND EXCLUDING Plaintiff, 16 TIME UNDER THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C. § 17 v. 3161(h)(8)(A)) AND [PROPOSED]> ORDER SHARICE M. SMALL, 1.8 Defendant. 19 20 On May 24, 2005, the parties in this case appeared before the Court and Ms. Small waived 21 her right to a preliminary hearing or arraignment within twenty days of her initial appearance. 22 Based on Ms. Small's waiver, the parties scheduled the next appearance in this matter for June 8, 23 2005 at 9:30 a.m. before Judge James for a preliminary hearing or arraignment. 24 The parties request this continuance on the grounds that: (1) the United States and Mr. Kalar, 25 counsel for Ms. Small, are in discussions regarding the matter that will likely impact the outcome 26 of Ms. Small's matter; and (2) Mr. Kalar believes that postponing the preliminary hearing is in 27 Ms. Small's best interest, and that it is not in his client's interest for the United States to indict 28

the case before the June 8, 2005 preliminary hearing date. The parties agree that the requested 1 continuance is necessary for effective preparation of defense counsel. 2 The parties stipulate and agree that the above-stated reasons constitute good cause to support 3 a continuance under Rule 5.1 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3060. 4 The parties also stipulate and agree that the stated reasons support a continuance of the 5 preliminary hearing or arraignment date under Title 18, United States Code, Sections 3161(b) 6 and 3161(h)(8)(B)(iv) and that the failure to grant the requested continuance would deny counsel 7 for the defense the reasonable time necessary for effective preparation, taking into account the 8 exercise of due diligence. 9 IT IS SO STIPULATED. 10 11 DATED: May 25, 05 12 Special Assistant United States Attorney 13 14

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STEVEN KALAR Attorney for Ms. Small

ORDER

For the foregoing reasons, the Court finds that good cause is shown and concludes that the continuance is proper under Rule 5.1 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3060.

The Court FURTHER ORDERS that an exclusion of time between May 23, 2005 and June 8, 2005, is warranted under the Speedy Trial Act because a failure to grant the continuance would unreasonably deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(8)(B)(iv). The Court finds that the ends of justice served by excluding time under the Speedy Trial Act outweigh the best interest of the public and the defendant in a speedy trial and in the prompt disposition of criminal cases. Id. § 3161(h)(A). The Court, therefore, concludes that this exclusion of time is

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proper pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv). The defendant is HEREBY ORDERED to appear before Judge James on June 8, 2005 at 9:30 a.m. IT IS SO ORDERED. United States Magistrate Judge